

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GREGORY SMITH,

Petitioner,

ORDER

v.

03-cr-108-jcs-01

UNITED STATES OF AMERICA,

Respondent.

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Petitioner moved under 18 U.S.C. §3582(c)(2) to modify his 15 year term of imprisonment based on an amendment to §4A1.2 of the Sentencing Guidelines. On December 17, 2007 respondent filed a response to petitioner's motion. Petitioner's reply was to be filed by January 17, 2008 and has not been filed to date.

FACTS

Petitioner had been convicted of three violent felony offenses committed on different occasions. He was, therefore, subject to a minimum fifteen year sentence pursuant to the provisions of 18 U.S.C. §924(e) and U.S.S.G. §41B.4. Knowing these provisions petitioner pled guilty to a one-count indictment charging him with unlawfully possessing a firearm as a convicted felon.

At the January 8, 2004 sentencing hearing the Court found that petitioner was an armed career criminal as defined by 18 U.S.C.

§924(e) and U.S.S.G. §4B1.4 and sentenced him to a mandatory minimum fifteen-year term of imprisonment. The United States Court of Appeals for the Seventh Circuit affirmed petitioner's judgment of conviction in a December 28, 2004 unpublished opinion.

MEMORANDUM

A court may reduce a defendant's sentence when the Sentencing Commission has reduced the applicable guideline range and made the change retroactive. 18 U.S.C. §3582(c)(2); United States v. Lloyd, 398 F.3d 978, 979 (7<sup>th</sup> Cir. 2005).

Petitioner has not shown that any amendments to U.S.S.G. §4A1.2 have been made retroactive. Further, he has not shown that §4A1.2 that the amendment would have changed his mandatory sentence under §924(e). Accordingly, his 18 U.S.C. §3582 motion will be denied.

ORDER

IT IS FURTHER ORDERED that petitioner's 18 U.S.C. §3582 motion is DENIED.

Entered this 25<sup>th</sup> day of January, 2008.

BY THE COURT:

/s/

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JOHN C. SHABAZ  
District Judge